है कि पहले उसको सेलरी सात साल तक पूरी दी जाए और बच्चों आदि के अलांऊ-सस जैसा कि आपने कहा है कि

"not more than three-fourths of the basic salary".

इस थ्री-फोर्थ बेसिक पे के बजाय

it should be not more than the salary he drew at the time of death.

क्या इस पर आप विचार करेंगे । दूसरे इसी प्रश्न का हिस्सा है कि पेंशन तो दी गयी है लेकिन उसमें कितनी देर लगती है ?

SHRI S. KRISHNA KUMAR. Madam, on 1-1-1086, these benefits were further liberalised for battle casualties and widows. So, this is the watershed date after which these liberalised pension benefits will be available. And as per the liberalised benefits, the family pension is at the rate of last pay drawn till death or disqualification, and not three-fourths of the salary.

THE DEPUTY CHAIRMAN: Question No. 162.

श्री जगदीश प्रसाद माथुर : मैडम उसका जवाब नहीं आया ।

श्री सुशीलकुमार संभाजीराव शिंदे : मैडम यह रक्षा मंत्री जी ने स्टेटमेंट किया है उसमें उन्होंने कहा है कि महिलाओं को एयर फोर्स में लिया जाएगा . . (व्यवधान) . . .

उपसभापति : क्युश्चन नंबर–162 ।

श्री सुशीलकुमार संभाजीराव शिंदे : मैडम रक्षा मंत्री जी ने बहुत मेजर पालिसी डिसीजन लिया है कि महिलाओं को एअर फोर्स में लिया जाएगा । मैं पूछना चाहता हूं कि यदि व सभी क्वालिफिकेशन्स फुलफिल करती है तो क्या उनकी आर्मी में लिया जाएगा ?

THE DEPUTY CHAIRMAN: Next question.

*162. *[The questioner (Shri Kri shna Kumar Birla) was absent. For answer vide co .....infra.]*

**Pending cases *of* Defaulting Companies**

*163. SHRIMATI SATYA BAHIN:†
SHRI RAJNI RANJAN SAHU:

Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) whether it is a fact that over 90 per cent of the eases of the defaulting companies are pending either with his Ministry or with the registrars;

(b) what is the number of cases where legal proceedings have been filed and what are the details of such cases and' in how many cases proceedings are yet to be filed; and

(c) what are the details of cases where penalty has been imposed or punishment awarded?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ); (a) to (c) A Statement is laid on the Table of the House.

**Statement**

(a) to (c) No Sir. Under Section 621 of the Companies Act, 1956, Registrars of Companies are empowered to file prosecution against defaulting companies. By and large, the prosecutions are filed by the Registrars under Sections 162 (non-filling of Annual Return), 168 (non-holding of Annual General Meeting), 210 (non-laying of annual accounts in the Annual General meeting) nad 220 (non-filling of balance sheet) . Prosecution under other provisions of the Act are filed by the Registrars based on the inspection of books of accounts of companies conducted under Section 209 A of the Act and arising out of

†The question was actually asked on the floor of the House by Shrimati Satya Bahin.

investors complaints and other contraventions which come to the notice of the Government from time to time. As per procedure, before filing pro-secutionsi, show cause notice is issued to the defaulting company and its directors and after considering the reply, if any prosecutions aer filed. In case the documents are filed though belatedly, the same are taken on record after levy of additional fee, if so deemed fit and prosecutions in such cases are not filed. Under the provisions of Section 621 A of the Act, as inserted by the Companies (Amendment) Act 1988, the Company Law Board/Regional Directors are empowered to compound certain off ences.

The details of the prosecution cases filed etc., during the year 1S91-92 are ss under:-

| | No. of cases |
|---|---|
| Cases pending in various courts as on 1-4-91 .... | 33357 |
| Cases filed during the year 1991-92 | 5881 |
| Cases disposed off by the courts ..... | 4070 |
| Cases pending as on 31-3-92 . ..... | 35168 |
| Total Same imposed by the courts during 1991-92 .... | Rs. 27,95,388.00 |

उपसभापति : सारे लोगों ने अपने क्वश्चन दिए हैं आगे के क्वश्चनों पर भी सावल आपको पूछने चाहिए ।

**श्रीमती सत्या बहिन** : माननीय उप-सभापति, महोदया, माननीय मंत्री जी ने जो जवाब दिया है उसमें बताया कि कंपनी अधिनियम, 1956 की धारा 621 के अंतर्गत रजिस्ट्रार को जो कंपनियों के विरुद्ध मामले दायर करने का अधिकार दिया गया है और इसमें उन्होंने यह बताया है कि कुछ मामले जो न्यायालयों में पैंडिंग हैं, कुछ मामले दायर किए गए, लेकिन मैं यह पूछना चाहती हूं कि ऐसे कितने मामले है जिनको निप्टा दिया गया है और इसके साथ ही वह लोग जो कंपनी वाले हैं जिनको कोई आर्थिक सजायें दी गई, वे लोग उच्च न्यायालय में गए हैं, क्या ऐसे मामले हैं ?

SHRI H. R. BHARDWAJ: There are cases relating to various violations. In 1991-92, the total number of cases filed was 5881, and there are about a dozen or so cases where people have agitated in the court and they are being pursued.

**श्रीमती सत्या बहिन** : माननीय उप-सभापति महोदया, मैं यह जानना चाहती हूं हूं कि जो मामले विलम्ब से जिनके लेखा-जोखा या दस्तावेज पेश करते हैं, उसमें बताया है कि कुछ अतिरिक्त शुल्क लग कर उन को लगा दिया जाता है, तो यह जानना चाहती हूं कि इस की क्या हैं शुल्क लेने की दरें क्या हैं और दरें कब निर्धारित हुई थीं ? महोदया, दूसरा मैं यह जानना चाहती हूं कि कंपनियों को जो शिकायतें आती है उस में उन को कारण बताओ नोटिस दिए जाते हैं और नोटिस देने का जवाब कितने समय में दिया जाता है ? मैं यह दो सावल एक से संबंधित जानना चाहती हूं ।

SHRl H. R. BHARDWAJ: Where there are violations by a company, the Registrar or the official concerned issues notice to the company and gives reasonable time for reply, and after the reply is field, action is taken according to the reply furnished. If the reply is adequate and the company makes necessary amends. the case ig not pursued further but there is a violation and the Registrar of Companies or the concerned offi-

cial is satisfied that there is a violation then he recommends actioP and the case is filed by the Registrar or the concerned official in the court.

I think, perhaps, the hon. Member is referring to cost audit. There are two or three kinds of violations. -where the cost auditors are not appointed or where the cost auditors have been appointed and they have not furnished the report in time, or where the reports have been furnished but action has not been taken to decide the case one way or the other. These are the three categories of cases that arise out of cost audit. "We have told the Registrar of Companies to expedite action and I am very happy that after that they have decided more than 50 per cent of the cases which were reviewed' by them.

SHRI RAJNI RAN J AN SAHU: The hon. Minister has given a detailed procedure under section 621 of the Companies Act, 1956 and said that under section 162 several companies have not filed their annual accounts and have also not furnished a report at the Annual General Meet ings. I am glad that the hon. Minister has also referred to cost audit. The hon. Minister might be aware that by not filing returns and by avoiding to be a defaulter under section 162, those companies also avoid the provi sions of section 209(1) (d) of the Companies Act, 1956. I would like to know from the hon. Minister whether he would give the details of the defaulter companies and also their names and whether he would ensure that requirement of cost audit will be enforced immediately. I would like to have this assurance from the hon. Minister.

SHRI H. R. BHARDWAJ: Madam, so far as cost audit is concerned, I had submitted lists in reply to an Unstarred question earlier. This is a long one. One list is in regard to the names of companies in respect of which cost audit reports have been examined in 1992-93. The number is about 46. I will give the list. There is another list where the request of the companies for appointment of cost auditors is pending. Their number is 70. We are expediting the appointment of cost auditors in these cases.

Tnen^ there *is* a list in regard to companies where cost auditors had been appointed for 1991 and reports have been received. There are 396 companies. Out of these 396 compan- _ ies, only about 100 cases remain to be reviwed. The others have been reviewed and proper action is being taken. There is another list of 182 companies where cost auditors had been appointed, but reports have not been received. The reports have to be received from the auditors appointed in the case of these companies. These are awaited. I have already told them that these reports should br expedited.

From our angle, we are required to do two things. One is about the cost audit. We are looking into this expeditiously. The other is to receive the reports from the auditors already appointed. There also, we are expediting. Wherever we find violation of the cost audit provisions, we will expedite action. I can assure the hon. Member that we will not spare any-one.

In regard to the names, I think it will be sheer waste of time to give the details here, i will give this list to the hon. Member.

THE DEPUY CHAIRMAN; I think the Minister has answered the question in great detail. We can move to the next question. *(Interruptions)*

**श्री अजीत जोगी** : सहाय साहब कम पूछते हैं, इनको जरूर मौका दिया जाए । ... (**व्यवधान**) ...

SHRI JAGESH DESAI: Madam, 'this is a. very important question. *(Interruptions)*

**श्री दयानन्द सहाय** : मैडम । महोदया, अपने देश में लिमिटेड कंपनी बनती हैं दस हजार रुपए की पूंजी से और सौ करोड की पूंजी से भी, लेकिन जितने फार्मस और रिटर्नस भरने होते हैं, आडिट फार्मस, बैलेंस-शीट, एनुअल रिटर्नस सिक्स मंथली रिटर्नस, शेयर ट्रांसफर, इन सब में कानून एक ही है सब के लिए । अब ऐसी कंपनियां, दो आदमी मिलकर कंपनी बनाते हैं, पचास हजार पूंजी है, बिजनेस चल नहीं रहा है, आडिट का भी उसको पांच सौ देना है, रिटर्न में सौ रुपया देना है, तो क्या मंत्री महोदय, इन कंपिनयों को दो भाग में करेंगे कि 25 करोड, पांच करोड से ऊपर की कंपनी या दस लाख से नीचे की कंपनी, इनके रिटर्न में वह सारे कानूनी व्यवधान न हों ? चूंकि एक वकील और रजिस्ट्रार के आफिस के क्लर्कों की मिलीजुली भगत है और एक वहां से शोकाज नोटिस जाता है, शोकाज-नोटिस में यह नहीं कि फाइन किया जाएगा, प्रोसीक्यूशन क्यों नहीं किया जाए ? रिजल्ट क्या होता है कि छोटी कंपनी वाले ...

**उपसभापति** : जरा छोटी कंपनी की बात संक्षेप में कहिए और बड़ी की भी संक्षेप में कहिए ।

**श्री दयानन्द सहाय** : मैं छोटी कंपनियों के प्रोटेक्शन के लिए जानना चाहता हूं कि क्या इनके दो भाग कर देंगे ? और, उनके ऊपर यह प्रोसीक्यूशन की बात हटा देनी चाहिए, जो फाइन देय है, फाइन लेकर उनको माफ कर देना चाहिए । क्या मंत्री जी ऐसा प्रपोजल सोच रहे हैं ?

**श्री हंसराज भारद्वाज** : मैडम, नए कानून के प्रोविजन 621(ए) में अभी गवर्नमेंट को पावर्स मिली हैं और मैं समझता हूं कि जो सुझाव आनरेबिल मैम्बर का है, उस पर विचार किया जा सकता है ।

SHRI JAGESH DESAI: Madam, I would like to point out that the fine is very low. I am very surprised to see that in 4,000 cases, the total fine collected by the courts is Rs. 27,95,0QC odd. Per case, it comes to Rs. 750. Will the hon. Minister see to it that this section is made so rigorous that it is compiled with? Otherwise, they will just pay the small amount of fine rather than comply with the provision . Therefore, may I know from the hon. Minister whether he will amend the Companies Act to see that the fine amount is increased? If not, we will have only this kind of a picture—in 4,000 cases, only Rs. 27,96,000 odd as fine, which comes to Rs. 750 Per case—and there will be no compliance. Will the hon. Minister see that the Companies Act is amendfed to increase the fine amount to such an extent that nobody can dare to violate the proisons?

SHRI H. R. BHARDWAJ: Madam, so far as fine is concerned, you will appreciate, it is imposed by courts, by the adjudicating authorities. It may be less considering the companies involved—it is not the individual who is involved. We can look into it but that would require amendment of the laws. If i remember correctly, there is a proposal to review the companies laws as ia whole with a view to making provisions more stringent. At that time it will come up for the consideration of this hon. House, but the existing laws are such that we have to go by them.

THE DEPUTY CHAIRMAN: Next Question.